IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Writ Petition No.687 of 2005.
Date of decision: 30.05.2007

Sheetal Devi ….**Petitioner**

Versus

State Bank of India & Others. ….**Respondents**

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The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Petitioner: Mr.Surinder Sharma, Advocate.

For the Respondent: Mr.K.D. Sood, Advocate.

Dev Darshan Sud,J.

The petitioner is the wife of late Shri Subhash Chand, who was working in Class-IV category of the State Bank of India at Shimla. It is averred that he died on 16.9.2003. He was the sole bread earner of the family. The petitioner being wife has applied to the respondents for appointment on compassionate grounds. The Scheme governing compassionate appointment has been filed as Annexure-PA to this writ petition.

The petitioner has alleged that she had submitted an application on 15.12.2003 and that the same was within the parameters of the Scheme (Annexure-PA), but her request for compassionate

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement*?**

appointment was rejected by the respondents by a communication dated 7.12.2004 (Annexure-PE). The petitioner is aggrieved by this order and has filed the present writ petition.

Reply has been filed by the respondents in which a number of grounds have been taken. The respondents have alleged that the petitioner is not eligible and as such her request was declined. Reference has been made to Annexure R-4, dated 12.10.2004, addressed to the Deputy General Manager, Zonal Office, Shimla, stating that his recommendation for rejection of the case has been accepted. It further states that Smt.Sheetal Devi may be informed about the reasons for declining the request for compassionate appointment and a reference should also be made to the Supreme Court judgment.

I have heard learned counsel for the parties and have gone through the record.

To say the least, Annexure R-5 is cryptic and does not contain any reason but approves the action proposed by the Deputy General Manager. To the same extent is Annexure-PE, which is to the same effect. A combined reading of these documents would show that they have been couched in general terms. In-fact, Annexure-PE only states that a detailed consideration has been made by the Competent Authority and it has been found that she is not eligible for appointment. The reasons given are a quote from the

Supreme Court judgment. Nothing has been conveyed to the petitioner stating as to the circumstances in which the appointment was declined.

Learned counsel appearing for the respondents has stressed that the reasons have been given in the reply which has been filed. He submits that the financial condition of the petitioner is not such as would render the dependence in the condition of want and penury. According to him, a total family income of 2828 rupees per month is available to them.

I cannot accept the contention of the learned counsel appearing for the respondents. In ***Mohinder Singh Gill and another*** *vs.* ***The Chief Election Commissioner, New Delhi and others, AIR 1978 SC 851,*** the Hon'ble Supreme Court while considering the matter, has held that the reasons for the order should be contained in the order itself. This principle has been reiterated in a number of subsequent decisions.

A combined reading of the orders declining the request of the petitioner would show that they do not contain any reasons. In so far as the pleadings are concerned, as I have held, a reason should be manifested in the order itself. The order cannot be improved by supplementing it with further reasoning in the form of an affidavit accompanying the reply. Apart from that, I find that the calculation(s) has been made by the Respondents without any consideration of the ground realities. The petitioner was pleading

for compassionate appointment on the grounds that her deceased husband was the sole bread earner and that after his death, the petitioner and five of her children were left for fend herself. How, in the present context, a sum of Rs.2828/- per month could be sufficient to meet the need of the petitioner is not clear. The reasoning defies logic. Moreover, a reading of the reply would show that the theoretical basis on which the income is arrived at, may not be in existence. The petitioner was required to be associated or at-least be heard in the matter before a decision was taken declining her request for compassionate appointment.

Under the circumstances, I hold that the orders Annexures-PE and R-5 cannot be sustained. The same are, accordingly, quashed and set aside. A direction is issued to the respondents to decide the matter afresh. Needless to say that they will take into consideration the present condition of the petitioner and her family and the trends of inflation in the market before concluding about the financial condition of the petitioner. Such decision shall be taken within a period of six months from today. The petitioner will be given an opportunity to be heard in person and to place before the respondents such other or further material as may be required to support her case.

The writ petition is disposed of in these terms. There shall be no order as costs.

May 30, 2007. **(Dev Darshan Sud)**
(aks) **Judge.**